

Appl. No. : 09/870,402
Filed : 05/30/2001

REMARKS

Claims 33, 35, and 40-61 are pending in this application. Claims 1-32 and 36-39 have been withdrawn. Claims 33 and 40 have been amended. Claim 34 has been cancelled. New claims 41-61 have been added. Support for the amendments and new claims is found in the specification and claims as filed.

Claim Rejections - 35 U.S.C. §112, Second Paragraph

Claims 33-35 and 40 have been rejected under 35 U.S.C. §112, second paragraph. Claim 33 has been amended to recite a method of screening for breast cancer in a patient, wherein one of the steps comprises "screening the removed carrier fluid for at least one breast cancer marker." Accordingly, Applicant respectfully requests that the rejection be withdrawn.

Claim Rejection - 35 U.S.C. §102(e)

Claims 33-35 and 40 have been rejected 35 U.S.C. §102(e) as anticipated by Hung, et al. (US 6,413,228). "A rejection for anticipation under section 102 requires that each and every limitation of the claimed invention be disclosed in a single prior art reference." See, for example, *In re Paulsen*, 31 USPQ2d 1671 (Fed. Cir. 1994). Hung, et al. does not disclose every element of Applicant's claims, and therefore cannot be considered as an anticipating reference under 35 U.S.C. §102(e).

Independent Claim 33 recites a method of screening for breast cancer in a patient, wherein one of the steps comprises "removing carrier fluid from the duct through the external opening by applying compression, suction, and heat to the breast." Hung, et al. only discloses removing fluid by massaging the breast and applying a vacuum. Application of heat in combination with compression and suction is not disclosed. Therefore Hung, et al. cannot anticipate pending Claim 33 which recites removing carrier fluid from the duct through the external opening by applying compression, suction, and heat to the breast.

Accordingly, Applicant respectfully requests that the rejection of Claim 33 and its dependent claims 35 and 40 be withdrawn.

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Claim Rejection - 35 U.S.C. §102(e)

Claims 33, 35, and 40 have been rejected under 35 U.S.C. §102(e) as anticipated by Love (US 6,221,622). Love does not disclose every element of Applicant's claims, and therefore cannot be considered as an anticipating reference under 35 U.S.C. §102(e)

Love, et al. only discloses removing fluid by applying pressure to the breast. Love states that preferably no vacuum or other aspiration pressure is applied to the catheter employed to remove fluid from the duct. See col. 6, 1. 67 to col. 7, 1. 4. Application of heat in combination with compression and suction is not disclosed. Therefore, Love cannot anticipate pending Claim 33 which recites removing carrier fluid from the duct through the external opening by applying compression, suction, and heat to the breast.

Accordingly, Applicant respectfully requests that the rejection of Claim 33 and its dependent claims 35 and 40 be withdrawn.

Claim Rejection - 35 U.S.C. §102(e)

Claims 33 and 35 have been rejected under 35 U.S.C. §102(a) as anticipated by "Final Results of Ductal Lavage Study Presented At 23rd Annual San Antonio Breast Cancer Symposium" (Dec. 2000). The symposium reference does not disclose every element of Applicant's claims, and therefore cannot be considered as an anticipating reference under 35 U.S.C. § 102(a).

The symposium reference only discloses withdrawal of fluid using a catheter (suction). Application of heat in combination with compression and suction is not disclosed. Therefore, the symposium reference cannot anticipate pending Claim 33 which recites removing carrier fluid from the duct through the external opening by applying compression, suction, and heat to the breast.

Accordingly, Applicant respectfully requests that the rejection of Claim 33 and its dependent claim 35 be withdrawn.

Conclusion

In view of the foregoing amendments and remarks, it is respectfully submitted that the present application is in condition for allowance. Should the Examiner have any remaining

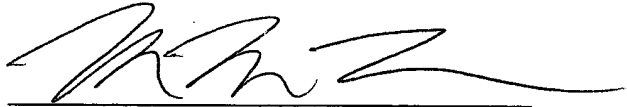
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concerns that might prevent the prompt allowance of the application, the Examiner is respectfully invited to contact the undersigned at the telephone number below.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 3/20/03

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